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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,873	11/12/2003	Peter M. Lerman	PML-200r	2299

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SHERMAN D PERIA, ESQ., PC  
1110 NASA ROAD ONE  
SUITE 450  
HOUSTON, TX 77058-3310

EXAMINER

OKEZIE, ESTHER O

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,873

Applicant(s)

LERMAN, PETER M.

Examiner

Esther O. Okezie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/12/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the adjustable handle lengths of the primary and secondary handles must be shown or the feature(s) canceled from the claim(s). No new matter should be entered
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "30" has been used to designate both the receiver end of the hinge and the swivel member. It is unclear whether item 30 is the hinge or the second swivel member.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of

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the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Lucas.
4. Regarding claim 1 Lucas discloses a two-handled shovel comprising: a primary handle fixed at a tool end to a tool head (20); a secondary handle detachably connected at a first end to the primary handle proximate the tool head (30); and a hinge coupling assembly detachably connecting the secondary handle to the primary handle (figures 5 and 6).
5. Regarding claim 2 Lucas discloses the two-handled shovel of claim 1 wherein: a hinge means mounted on the primary handle (lower pivot 50 through hole 29 on primary handle 20; figure 6); and a handle swivel means connecting the secondary handle to the hinge means (upper pivot 50 through hole 31 on secondary handle 30).
6. Regarding claim 3 Lucas discloses the two-handled shovel of claim 2 wherein the hinge means comprises: a base plate (split sleeve connector member 60; figure 5); a first fastener means mounting the base plate to the primary handle (lower pin 41), a

hinge plate (40), the hinge plate hingeably connected to the base plate and having a first swivel member disposed thereon (upper pivot 41); and a removable hinge pin for hingeably connecting and disconnecting the base plate with the hinge plate (lower pin 41; see figure 5).

7. Regarding claim 4 Lucas discloses the two-handled shovel of claim 2 wherein the handle swivel means comprises: a second swivel member mounted at the first end of the secondary handle (figure 6: upper pivot 50 through hole 31 on secondary handle 30); and an engagement means, connecting the first and second swivel members in a common plane of rotation relative to each other (41).

8. Regarding claim 5 Lucas discloses the two-handled shovel of claim 1 wherein the primary handle is adjustable in length (20, figure 7).

9. Regarding claim 6 Lucas discloses the two-handled shovel of claim 1 wherein the secondary handle is adjustable in length (30, figure 7).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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